

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

UNITED STATES OF AMERICA, CR 14-74-BMM

Plaintiff,

vs.

JOSHUA NOBLE HEAVY RUNNER,

Defendant.

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**FINDINGS AND  
RECOMMENDATIONS TO  
REVOKE DEFENDANT'S  
SUPERVISED RELEASE**

**I. Synopsis**

The United States accused Mr. Heavy Runner of violating the conditions of his supervised release by (1) failing to report for sex offender treatment, (2) failing to report for substance abuse testing, (3) failing to register as a sex offender, (4) failing to notify his probation officer of a change in his address, and (5) failing to pay his special assessment. He admitted to allegations 1,2, 4, and 5. The United States did not put on evidence on allegation 3. Mr. Heavy Runner's supervised

release should be revoked. He should be sentenced to six months in custody, with thirty-six months of supervised release to follow.

## **II. Status**

United States District Judge Brian Morris sentenced Mr. Heavy Runner to eighteen months in custody, with sixty months of supervised release to follow on January 8, 2015, after he pleaded guilty to Failing to Register as a Sex Offender. (Doc. 20.) He began his current term of supervised release on December 10, 2015.

The United States Probation Office filed a Report on Offender Under Supervision on February 22, 2016, notifying the Court that Mr. Heavy Runner failed to reside at his registered address and used marijuana. (Doc. 23.) Judge Morris allowed him to continue his supervised release.

The Probation Office filed a Report on Offender Under Supervision on March 15, 2016, and April 5, 2016, notifying the Court that Mr. Heavy Runner used marijuana. (Docs. 25; 26.) Judge Morris allowed him to continue his supervised release.

The Probation Office filed a Report on Offender Under Supervision on September 23, 2016, notifying the Court that Mr. Heavy Runner failed to pay his special assessment. (Docs. 27.) Judge Morris allowed him to continue his supervised release.

## **Petition**

The Probation Office filed a Petition for Warrant for Offender Under Supervision on July 17, 2017 alleging that Mr. Heavy Runner violated the conditions of his supervised release by (1) failing to report for sex offender treatment, (2) failing to report for substance abuse testing, (3) failing to register as a sex offender, (4) failing to notify his probation officer of a change in his address, and (5) failing to pay his special assessment. (Doc. 29.) Based on the petition, the undersigned issued a warrant for Mr. Heavy Runner's arrest. (Doc. 30.)

## **Initial appearance**

Mr. Heavy Runner appeared before the undersigned on August 1, 2017, in Great Falls, Montana. Federal Defender Anthony Gallagher accompanied him at the initial appearance. Assistant United States Attorney Paulette Stewart represented the United States.

Mr. Heavy Runner said he had read the petition and understood the allegations. He waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

## **Revocation hearing**

Mr. Heavy Runner admitted allegations 1, 2, 4, and 5 but neither admitted or denied allegation 3. The United States did not put on evidence on allegation 3. The

admitted violations are serious and warrant revocation of Mr. Heavy Runner's supervised release.

Mr. Heavy Runner's violation grade is Grade C, his criminal history category is III, and his underlying offense is a Class C felony. He could be incarcerated for up to twenty-four months. He could be ordered to remain on supervised release for sixty months, less any custody time imposed. The United States Sentencing Guidelines call for five to eleven months in custody.

Mr. Gallagher recommend a sentence at the low-end of the guideline range, with supervised release to follow. Mr. Heavy Runner exercised his right of allocution and stated that he takes responsibility for his actions and suffers from PTSD. Ms. Stewart recommended a sentence within the guideline range, with supervised release to follow.

### **III. Analysis**

Mr. Heavy Runner's supervised release should be revoked because he admitted violating its conditions. He should be sentenced to six months in custody, with thirty-six months of supervised release to follow. This sentence would be sufficient given the seriousness of the violations but would not be greater than necessary.

### **IV. Conclusion**

Mr. Heavy Runner was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider his objection, if it is filed within the allotted time, before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The undersigned **FINDS:**

Joshua Noble Heavy Runner violated the conditions of his supervised release by (1) failing to report for sex offender treatment, (2) failing to report for substance abuse testing, (3) failing to notify his probation officer of a change in his address, and (4) failing to pay his special assessment.

The undersigned **RECOMMENDS:**

The District Court should enter the attached Judgment, revoking Mr. Heavy Runner's supervised release and sentencing him to six months in custody, with thirty-six months of supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO  
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo

determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

DATED this 8th day of August 2017.



John Johnston  
United States Magistrate Judge